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June 26, 2020

BY ECF

Honorable Loretta A. Preska
United States District Court for the Southern District of New York
500 Pearl Street
New York, N.Y. 10007

Re: *Milburn v. Dogin*, 79-CV-5077 (LAP)

Dear Judge Preska:

Along with Dechert LLP and Hoffner PLLC, we are counsel for the Plaintiff class in the above-referenced matter. We write in accordance with the Court's June 10, 2020 directing, *inter alia*, "[c]urrent and proposed Plaintiffs' counsel" to "confer among themselves and with defense counsel and inform the Court by letter on or about June 19 of the status of the action."¹ (Dkt. #540).

Selection of class representatives

Per defense counsel, copies of the notice to the Plaintiff class have been posted and distributed within Green Haven Correctional Facility in accordance with the process agreed upon by counsel and approved by this Court's April 22, 2020 Order. (Dkt. #533). The Notice requests that people interested in acting as a class representative contact current Plaintiffs' class counsel by July 31, 2020. Plaintiffs' class counsel has already begun conducting telephone interviews with potential class representatives. Accordingly, and subject to the Court's approval, Plaintiffs' class counsel proposes updating the Court on or before August 31, 2020 on the status of the selection of class representatives. Defendants take no position on class counsel's proposal in regard to timing, but respectfully note that the Second Circuit's mandate appears to indicate that class representative(s) should be selected before the case proceeds in other respects.

Selection of substitute class counsel

Plaintiffs' class counsel has conferred with Amy Agnew and Prisoners' Legal Services ("PLS"). Ms. Agnew has requested that Plaintiffs' class counsel inform the Court that her office would no longer like to be considered as prospective class counsel. PLS has also requested that Plaintiffs' Counsel advise the Court that PLS does not have the capacity to serve as prospective class counsel.

¹ The Court's Order also granted Plaintiffs' class counsel until June 19, 2020 to respond to Mr. Lifrieri's letter of May 8, 2020 (Dkt. #537). To this end, Plaintiffs' class counsel has filed a separate letter to the Court.

Additionally, despite Plaintiffs' class counsel's efforts, we have been unable to identify a private law firm with significant resources that is willing to act as pro-bono substitute counsel in the matter. While we will continue our efforts, we do not have a prospective time frame for locating additional/substitute counsel.

Sincerely,

/s/ Dori Lewis

Dori A. Lewis
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Stefen R. Short
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Sophie Gebreselassie
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cc:

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